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WASHINGTON STATE
MINORITY AND JUSTICE COMMISSION
COMMUNITY FORUM

January 30, 2004

1:00 p.m.

401 Second Avenue South
Seattle, Washington

JACQUELINE L. BELLOWS, CCR
Court Reporter

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STATEMENT OF LAURA CONTRERAS

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My name is Laura Contreras, L-A-U-R-A. Contreras is
C-O-N-T-R-E-R-A-S.

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I'm happy to be here. I am a legal services attorney in
Yakima. I work with Columbia Legal Services, and I've been a
legal services attorney for about 14 years. For the past five
years, I've mostly been working on behalf of battered immigrants
and their children in contested custody cases.

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So I've had some experiences in seeing the need for
interpreters in civil cases. There have been times when I've been
asked by pro tem judges to translate his warnings that he's giving
to a father. Let me explain this case a little bit more. I
represented a monolingual Spanish-speaking farm-worker woman. And
the father had custody of the child and was preventing my client
from seeing the child.

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We all prepared declarations. So the judge, when I
requested an interpreter, stated that he was going to make a
decision based upon the record, which included the declarations.
Well, he did that. He made a decision in favor of my client, but
then he wanted to give the father some warnings. And because
there was no interpreter there, he asked me to interpret.

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So I thought it was very inappropriate. I thought it
wasn't acceptable, but a judge had asked me to do it. So I felt

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1 like I had to.

2 There's been another occasion where we have had to hire
3 an interpreter to go to trial and translate for our client. And
4 this was particularly difficult because the Court called me at
5 4:30 the day before trial to say that it didn't seem from the
6 record that the opposing party was going to appear at trial and
7 there wasn't a county interpreter available and they didn't have
8 any money. So they weren't going to have an interpreter there.

9 So we had to scramble and take our own interpreter for
10 that trial. Things would have got very messy if the opposing
11 party would have shown up. Obviously, there would have been a
12 delay in that trial because we couldn't use the same interpreter.

13 So there have been lots of issues. And I think that
14 that really has precipitated our office in starting to work with
15 the county to come up with some policies that attorneys and
16 parties can follow if they need to request an interpreter to help
17 them with a case.

18 And I think King County has a program in place and
19 Martha would like to share a little bit about what King County
20 does.

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STATEMENT OF MARTHA COHEN

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Hi, my name is Martha Cohen, C-O-H-E-N. And I manage the Office for Interpreter Services for King County Superior Court here in Seattle. I am also a court-certified Spanish interpreter. So I'm in the trenches every day as well as overseeing the program.

Our office provides interpreter for the criminal, the civil cases, family law cases, and all the court-related programs for the King County Court House here in downtown, the Regional Justice Center in Kent, and all of juvenile court. We've worked so far in 108 languages, which always provokes a little "woo." But these are the demographics in our county now.

Washington state is fourth or fifth in the nation in refugee resettlement. The reason for that is that not only are there organizations all over the state who are very active and successful in providing services for refugees and immigrants, but also many of the refugees and immigrants have family members that live in this state already. So this is a very desirable place to come to live. And consequently, that's how we've reached 108.

And when I talk about my budget with my judges, I say: This is now the price of doing business our county. This is not 1980. It's not 1990. This is the reality in our state. And the courts are not the only entities seeing this. Hospitals are

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1 seeing it and all kinds of social services as well.

2 Briefly and to continue about the program, specifically
3 about civil cases, civil cases in our court, the court provides an
4 interpreter if there's been a finding of indigency. The court
5 makes that determination by a form and order authorizing
6 interpreter services at public expense.

7 This is a three-page document. The second page is the
8 request from the litigant saying: I am not readily able to
9 understand or participate in the English language; I am requesting
10 an interpreter at public expense. The third page is the actual
11 financial declaration itself, and the first page is the order
12 signed by the judge or commissioner authorizing an interpreter to
13 be paid to work with the civil litigants. The guidelines that are
14 followed are the federal poverty guidelines, and they are updated
15 as the federal poverty guidelines are updated regularly.

16 As far as the family law facilitator, our office has
17 actually made interpreter issues, because they are such a large
18 part of our court, kind of an everyday occurrence. It's not just
19 an occasional kind of thing that happens in our court. So we even
20 have a judges' interpreter committee. The same way that there is
21 a jury committee or a budget committee or family law committee, we
22 have an interpreter committee that deals with interpreter issues
23 and makes policy.

24 And one of the things that they've done is they've now
25 given, for several years now, an hour and a half of time with a

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1 family law facilitator for an expense, determining that if this is
2 a service that we're offering to English speakers, we cannot
3 penalize the non-English speaker for the same service just because
4 of the fact that they don't speak English. So we offer an hour
5 and a half of time with the facilitator.

6 I think where our office is perhaps a little bit
7 different is that we track all of our cases carefully. So we
8 don't have the same interpreter working with the victim as doing
9 the tape transcription. We don't have 13-year-old nieces and
10 nephews interpreting for parents, which on occasions we found when
11 we first started the office in 1992. We're very careful about
12 quality control: Screening the interpreters, both certified and
13 those who work in noncertified languages.

14 Another prong that I would encourage you to follow up on
15 is the educational prong of judges and commissioners as well as
16 attorneys and basically those who work with the interpreters,
17 because it's the judges and the commissioners who are allowing
18 these kinds of difficult situations to continue and to happen,
19 actually. We have a manual for judges that we, my colleague and I
20 have developed. We train every judge and every new commissioner
21 that comes on our bench. We spend time with them. And because we
22 are both court-certified interpreters, the first few hearings and
23 events with any new judge and any commissioner, my colleague and I
24 will serve as the interpreters in those events so that the judge
25 and commissioner understand what it's supposed to look like and

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1 how it's going to be appropriate and again paying careful
2 attention to the ethical concerns as well as the quality.

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4 JUSTICE SMITH: Thank you Ms Cohen and
5 Ms. Contreras.

6 MS. CONTRERAS: Is there time for me to say just a
7 few words?

8 JUSTICE SMITH: Not a few minutes, a few seconds.

9 MS. CONTRERAS: I think there really is a need for
10 a statewide uniform system and that forms be adopted
11 that every county can follow so that every county
12 doesn't need to be creating their own documents. I
13 think you have to figure out a way for participants to
14 be informed that the service is available so that they
15 can request it.

16 Thank you.

17 JUSTICE SMITH: Questions limited to a five-minute
18 period. We have a very tight schedule.

19 Mr. Boruchowitz, a member of the commission, state your
20 name for the court reporter. Then ask your question,
21 directed to whichever of the two young women you wish.

22 MR. BORUCHOWITZ: I'm Bob Boruchowitz. I want to
23 ask Martha, how many of the 108 are certified?

24 MS. COHEN: There are currently only seven
25 court-certified languages in this state. And that was

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1 determined by frequency of use of volume all around the
2 state after a statewide survey was taken.

3 JUSTICE SMITH: Douglas Luna.

4 JUDGE LUNA: I'm the technical advisor for the
5 commission. Have you been able to access the
6 Washington State Department of Social and Health
7 Services list of interpreters for use?

8 MS. COHEN: I personally have. However, there is
9 a difference, quite a large difference, between
10 interpreters who are certified by DSHS and interpreters
11 who are certified by the court. The testing process
12 may be the same, with a written and an oral test; but
13 the vocabulary, the level of language --

14 I know, in juvenile court in dependency cases, we
15 have had some difficulties because we have had DSHS
16 interpreters who were called by DSHS to come into court
17 and they'd never set foot in a courtroom in their
18 lives. And it shows. So it's quite a difference. I
19 normally don't go through that list.

20 JUSTICE SMITH: Only commission members can ask
21 questions. I'm sorry. Judge Mamiya and then
22 Judge Yule.

23 JUDGE YULE: I'm Dennis Yule. Ms. Cohen, does
24 your office maintain any kind of directory of the
25 interpreters in the noncertified languages?

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1 MS. COHEN: We do. We have a bank of interpreters
2 that we use, and sometimes all of the interpreters are
3 not local. We do some telephone interpretation, if
4 necessary; and then, if it gets down to crunch time
5 with a trial, we may bring the interpreter in.

6 JUSTICE SMITH: Judge Mamiya.

7 JUDGE MAMIYA: Ron Mamiya.

8 Martha, how would you prioritize, if you could,
9 the most demanding or those things that you feel should
10 be addressed in respect to interpreters in the courts
11 right now?

12 MS. COHEN: I would say it's education of those
13 who use the services of interpreters. I would say
14 access and education of even court personnel so when
15 there's a non-English speaker who comes to the counter
16 that's trying to get some assistance, they can at
17 least, perhaps, get an interpreter on the telephone to
18 facilitate that small communication.

19 And I would also say that quality-control
20 screening is important. And attention to ethics is
21 always critical. You don't want to be using the same
22 interpreter, as happened in another case with bickering
23 parents or the same parties or children. And we have
24 stories about that as well.

25 JUSTICE SMITH: Okay. Judge Sypolt, the last

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1 question and answer.

2 JUDGE SYPOLT: Greg Sypolt. My question is to
3 Ms. Cohen. Very quickly, is the manual for judges
4 available so that other judge members of the commission
5 and other judges around the state can get a copy of the
6 manual?

7 MS. COHEN: The manual is available. I do need to
8 tell you, it's really only pertinent to the superior
9 court and the practices of the staff that we're using
10 there. But it's a document that has to do with issues
11 of protocol, ethics. It gives the payment guidelines
12 for superior court. And then we spend time with the
13 judge or the commissioner, a good hour, to bring them
14 up to speed.

15 JUDGE SYPOLT: Secondly, would you be interested
16 in doing some teaching at the judicial college without
17 charge?

18 MS. COHEN: I would be happy to, because, quite
19 frankly, the main thing I'm interested in is quality
20 interpretation, wherever it is, whether it's at a food
21 bank or shelter or in the courtroom.

22 JUSTICE SMITH: I want to thank Ms. Contreras and
23 Ms. Cohen.

24 Then next team is Ms. Michele Jones, Columbia
25 Legal Services and Judge Art Wang who is the chief

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1 judge for the Washington administrative law system but
2 not here appearing in his official capacity as chief
3 judge but in his official capacity as a member of the
4 group making the presentation. Thank you.

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STATEMENT OF JUDGE ART WANG

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Thank you. My name is Art Wang, W-A-N-G. I'm the chief administrative law judge in the Office of Administrative Hearings but also a member of the Task Force on Civil Legal Equal Justice Funding, as is Michele Jones, who's appearing with me, who is also in that position as a member of the civil legal task force and civil legal justice planning as part of her role in the Access to Justice Board and with Columbia Legal Services, I assume.

First of all, thank you to the Minority and Justice Commission for helping to sponsor a study which is being presented before you. We have a limited number of them. So if you already have them, please don't take another one. But you are most welcome to have it. We want, frankly, to encourage and distribute this study as much as possible. Because it is important. It's a very important study. Well, we realize that some of you have probably heard presentations on it before. We think it's worth repeating and worth emphasizing.

What this study does is to confirm many of the expectations, frankly, about the availability of legal services on civil matters to the poor in this state and to document that. But it also is full of some significant surprises. And frankly, the situation is even worse than we thought, is the best way to summarize it.

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1 87 percent of low income households have at least one
2 civil legal need per year -- 87 percent. 88 percent of them face
3 these legal problems without an attorney, without access to an
4 attorney. Even for those legal problems which are considered
5 extremely important, self-described as extremely important,
6 85 percent face them without access to an attorney.

7 One of the stereotypes is that, of course, what is the
8 greatest need? Family law. Well, family law is a big chunk of
9 things. The truth is that it's important, but it's only
10 14 percent of the legal issues, legal needs that are faced.
11 Housing is actually the highest percentage at 17 percent.

12 What's also striking is that family law, there is some
13 help available, some attorney help is available in 30 percent of
14 the cases. Whereas for all other issues, it is less than
15 10 percent. So I think there were some surprises in here. That's
16 one of the surprises to us in terms of just the findings of the
17 study. Let's see. In comparison to households with legal
18 problems, 41 percent have some sort of problem relating to
19 housing.

20 One of the surprises, at least to me, was also the
21 extent to which discrimination was a problem. Perhaps that should
22 not come as a surprise; but nevertheless, the extent of it was.
23 Discrimination is a component in one of four legal problems and is
24 an element in more than half of all employment and health
25 problems.

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1 Now, when we're talking about employment problems for
2 low income people, we're talking about wage issues, all kinds of
3 issues. And yet discrimination is more than 50 percent of
4 problems they face. Discrimination is a component in employment,
5 in discriminatory policing, in health care, in language, in
6 housing, in police harassment. So there are numerous areas. And
7 there's a lot of data in the material. In the time given, I can't
8 go through all of it, but I think it is important to highlight
9 that.

10 There is not much difference in legal problems between
11 the rural and urban areas, but there are differences in the
12 knowledge of legal resources and access to legal resources from
13 area to area. I think that's another interesting and significant
14 aspect.

15 One of the most troubling aspects, though, is in terms
16 of the viability of the overall justice system and what a
17 difference it makes in terms of perceptions of the justice system.
18 If people were able to get help, if low income people were able to
19 get help from an attorney, 61 percent ended up reporting they were
20 satisfied with the justice system. If they sought an attorney's
21 help but did not get it, 19 percent were satisfied with the
22 justice system. If they get help, their perception of the justice
23 system were 54 percent basically positive, 28 percent negative.
24 If they sought an attorney's help but could not get an attorney's
25 help, 21 percent were positive, 70 percent were negative,

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1 including 51 percent were very negative. So that's pretty
2 dramatic in terms of just their response to that.

3 Where do we go from here with this? Well, in part,
4 there is a legislative bill which addresses some of the need for
5 civil justice funding and legal services funding. But I think
6 it's also important -- and Michele's going to talk about this
7 more, too -- to follow up and see how this commission can perhaps
8 take a role in conjunction with others, Gender and Justice
9 Commission and other commissions, and perhaps finding ways to
10 explore this and go beyond this.

11 So let me turn it over to Michele.

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STATEMENT OF MICHELE JONES

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Thank you, Judge Wang.

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My name is Michele Jones, M-I-C-H-E-L-E, J-O-N-E-S; and I'm very grateful to be before you today. Thank you for the opportunity.

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I come to you, as Judge Wang says, as a member of the Civil Legal Equal Justice Task Force, as a member of the Access to Justice Board, and as a statewide advocacy coordinator at Columbia Legal Services. So from a lot of different viewpoints, this study is compelling to me.

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What I wanted to briefly do was just cover three things, one being the legal services gap that exists in terms of the ability of staff legal services to address these kinds of discrimination problems, and also to draw some possible connections between this study and some other studies you're familiar with, and finally to make a suggestion which I understand somebody else has already made. So that makes it quick.

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Legal services traditionally has not handled discrimination-type cases, so I'm focusing my attention to the finding of this study related to discrimination. Obviously, the housing problems, the family law, and domestic violence problems are problems that traditionally legal service attorneys have been able to very capably address, although not to the extent that

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1 they're present, obviously. But we're able to do those things.

2 The discrimination cases have not traditionally been a
3 priority for us, not because they're not important but because
4 those are cases that are beyond the scope of what we can do. Many
5 legal service advocates have restricted funding that doesn't allow
6 them to do, for example, class actions or seek attorneys' fees for
7 their work or to use some of the other tools that make some of the
8 most compelling ways to move forward with these types of cases.
9 So there's clearly a gap in that there is only some kinds of
10 issues related to discrimination that we're able to handle. And,
11 you know, we're always reevaluating, looking for new ways; but
12 that is a gap.

13 One of things that we found in looking at the study is
14 we were surprised to find out how often discrimination comes up as
15 an element. And this is discrimination not just felt by
16 minorities. Obviously, you're the Minority and Justice
17 Commission; and it is a large issue for minorities. But it was
18 highly affecting women, people with disabilities, across the
19 spectrum. And actually, Judge Mary Kay Becker from Division II
20 did make a presentation on this for the Gender and Justice
21 Commission and let them be aware of this as well.

22 But the ABA did a study on how the public viewed the
23 courts back in 1999. We were finding a strong element of
24 disaffection by minority populations of the court system. And
25 that's a real problem. The credibility of the courts is a real

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1 problem. So this is coming out in a lot of different areas. It's
2 coming out here. Judge Wang referred to the dissatisfaction that
3 people feel with the justice system when they are not able to get
4 any assistance. That shouldn't surprise us, but it should trouble
5 us.

6 We were thinking that, given the findings that we had,
7 the data that we've gathered are much more significant than are
8 even what's reported in the actual published study that you have.
9 There's more information, and there are information from these
10 other reports. It seems to us that between previous studies that
11 all have done -- information from the Human Rights Commission,
12 from the Minority and Justice Commission, from the Gender and
13 Justice Commission -- that there's an opportunity to gather
14 further information, pull that together, and actually make some
15 recommendations about what we can do to make the justice system
16 more available, acceptable, and credible for people who are
17 disenfranchised, who are experiencing discrimination.

18 The Civil Legal Needs study does not make specific
19 recommendations. Obviously, as Judge Wang indicated, we are
20 seeking some money to assist with funding for legal services so we
21 can try to meet more of the needs that we're not meeting now. But
22 we haven't made any recommendations about what needs to happen
23 next.

24 And I would invite this commission to consider whether
25 you might want to join together with other bodies to consider ways

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1 to get more information about the discrimination, the disaffection
2 with the system and come up with some recommendations and ideas
3 about how we can address that. I guess that you've already been
4 thinking about that a little bit. And I'm really happy to hear
5 that. So that's what I wanted to add.

6

7 JUSTICE SMITH: Thank you, Ms. Jones, Judge Wang.

8 Members of the commission have a limited five

9 minutes to ask questions and get them answered.

10 Identify yourselves by name. Ask your questions

11 directly to either Judge Wang or Ms. Jones.

12 Judge Murphy.

13 JUDGE MURPHY: Jim Murphy. Are there research

14 resources available through the EPJ or any other

15 resource that we do have available that we might

16 access, in addition to whatever research resources we

17 have, to do what you suggest?

18 MS. JONES: By "resources," you mean . . .

19 JUDGE MURPHY: Researchers, educators, people in

20 the business. Do you have suggestions?

21 MS. JONES: Right.

22 JUDGE WANG: I think there's a network of people

23 who are interested and involved and willing to provide

24 time and assistance; but I'm not sure that resources in

25 terms of money and paid bodies are there. I'll

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1 volunteer Michele and myself as an example of the
2 people who are interested in pursuing it, and we'll
3 provide our time in pursuing these things. But we are
4 also not full-time researchers. I should also mention
5 that Justice Johnson, who was here earlier, was the --
6 as well as Mary Kay Becker, Division I not Division
7 II -- are co-chairs of the task force. And so we
8 appreciate their involvement, obviously.

9 JUSTICE SMITH: Bob Boruchowitz.

10 MR. BORUCHOWITZ: Michele, I'm borrowing from
11 Judge Mamiya's question. What one thing would you like
12 the commission to do?

13 MS. JONES: That's a great question.

14 JUDGE WANG: I'll go first while you're thinking
15 about it.

16 I would follow-up with trying to find with
17 other -- Gender and Justice Commission obviously is a
18 possibility -- in terms of exploring where we go from
19 here. There is limited capacity within this commission
20 or any commission to do things. So I think it's a
21 matter of coming down, Okay, this study was designed to
22 talk about civil legal needs. Now we've identified
23 that a portion of this is a more widespread problem
24 with discrimination and how that impacts the legal
25 system, where can we go from here. And to perhaps form

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1 a subcommittee, something of that sort, some sort of
2 task force to work together to pursue that aspect and
3 try to figure out what can we do from here in terms of
4 pursuing that.

5 MS. JONES: And I'll add that we see access to
6 justice as a fundamental right. And if people are not
7 accessing the system because they don't believe that it
8 is going to be effective for them, then that's a
9 problem.

10 It strikes me that the justice system has an
11 obligation to make the public aware of what can be done
12 to help them with their problems, if they have legal
13 problems, that they do want to address those.
14 Obviously, we have difficulties in resources in
15 different counties across the state. We have
16 difficulty in resources from legal services to help
17 people get into the door.

18 But it seems like we should be able to do
19 something -- and I don't mean a public relations piece,
20 but I mean maybe something that needs to be a part of
21 the courts, something that's available in the courts,
22 that's informational, that's effective for people. But
23 first we have to get the all information, be clear. We
24 need a partner, actors in the system who care about
25 this.

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1 Then we need to watch the initiatives. I'm not
2 sure what the initiative is, but I think that
3 partnering with other people and really letting the
4 public know that justice is real, that sort of reform,
5 would be really important.

6 THE REPORTER: Excuse me. And what was your name?

7 MR. BORUCHOWITZ: Me? It's Boruchowitz,
8 B-O-R-U-C-H-O-W-I-T-Z.

9 THE REPORTER: Thank you.

10 JUSTICE SMITH: I'm going to call time on the
11 questions. I want to thank Ms. Michele Jones.

12 Our next presenter is Ms. Lisa Daugaard of the
13 public defender's office, the racial disparity project.

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STATEMENT OF LISA DAUGAARD

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I just have an outline of my remarks. My name is Lisa Daugaard. I supervise the racial disparity project in the defender association here in King County. I want to thank you very much for the chance to talk to you about three issues in criminal justice.

The first is the issue of racial disparity in drug cases and specifically in drug arrests. Back in 1999, many of you probably are familiar with a report issued by this commission that looked at drug cases coming out of three counties: King county, Yakima, and Pierce county. And the report looked at judicial decision making, particularly sentencing, and prosecutorial choices in those cases and tried to answer the question whether those factors were causing the racial composition in Washington prisons in drug cases to be as dramatically different from the general population as it was.

To oversimplify somewhat, the report found that it did not appear that judicial decisions or prosecutor choices, filing decisions and plea decisions, were driving the disparity in the prisoner population in drug cases. The authors interviewed criminal justice professionals in those three counties and asked them what they thought was driving the disparity.

And the authors offered two hypotheses. One was that

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1 actually the rate of offense is different, that minorities commit
2 drug offenses at a higher rate than whites. The other possibility
3 would be that law enforcement concentrates on offenses by
4 minorities disproportionately. The criminal justice professionals
5 who were interviewed, particularly in King county, thought that it
6 was likely that law enforcement choices were driving the
7 disparity. But since the report did not concentrate on that
8 question, it certainly didn't prove anything.

9 So our project for past three years has worked at
10 exploring that question: Whether law enforcement choices are
11 contributing significantly to racial disparity in drug cases. I
12 outlined a couple of reports that we have generated since 2001
13 that do seem to confirm in Seattle that that is true, that police
14 decisions are responsible for the disproportionate representation
15 of minorities in drug arrests.

16 We picked Seattle because we practice in Seattle and
17 because the Seattle Police Department is the largest agency and
18 responsible for the largest number of drug arrest in King county.
19 Obviously, that doesn't mean that Seattle is the most significant
20 place where this is a problem. This is just the place we happened
21 to study.

22 In 2001 researchers from the Kennedy School of
23 Government at Harvard interviewed many SPD personnel, from command
24 personnel down to line officers, and looked at some existing
25 public health data and the best arrest statistics that were

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1 available at that time. They concluded that SPD enforcement
2 choices were significantly responsible for racial disparity.

3 That report was limited in several ways. One, at that
4 time, SPD arrest statistics were not available but broke down
5 arrests by kind of drug crime, like delivery versus possession, by
6 kind of drug, or any way more specific than just all drug crimes
7 by race in particular year. And there was also no research. As
8 is true around the country, there was no research on the
9 demographics of the quote/unquote actual offender population, that
10 is, people who are actually engaged in drug delivery. There is
11 public health data on who uses drugs, but it's very difficult to
12 get that data on who deals or who delivers.

13 So in 2003, two scientists that we were working with, an
14 ethnographer and a sociologist at the University of Washington,
15 studied drug dealing in Seattle and issued two reports that I want
16 to just summarize. The ethnographer, Kris Nyrop, who directs free
17 outreach services in Seattle, studied open-air drug dealing at two
18 sites in Seattle and found that downtown, where many of Seattle's
19 drug arrests happen, the open-air drug market is very racially
20 heterogeneous. There is a large representation of people of color
21 in that market.

22 He also looked, though, at a drug market on Capitol Hill
23 that is overwhelmingly white, 95 percent. And the 5 percent is
24 one African-American individual who was just repeatedly involved.

25 And so he found there is substantial white involvement

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1 in outdoor drug dealing, but this is not a site where SPD
2 concentrates its enforcement resources. So this answers the
3 question of whether the disparity could be caused by differences
4 in the way in which people of color and whites deal drugs.

5 Then Professor Katherine Beckett of the UW issued a
6 report in December that's been updated in January looking very
7 comprehensively at all the available data on who is dealing
8 drugs -- whether indoors, outdoors, anywhere in the city,
9 involving any drug -- and finding it extremely likely that blacks
10 are substantially over-represented and whites substantially
11 under-represented in the population that's being arrested for drug
12 delivery.

13 And I just want to quote a couple of compelling
14 statistics. She found that black offenders were more than 6 times
15 more likely than white offenders to be arrested for delivery of
16 powder cocaine, 22.6 times more likely to be arrested for delivery
17 of heroin, and 31.6 times more likely to be arrested for delivery
18 of methamphetamine.

19 So I think that just what we want to bring to you is
20 that building on the work of this commission in 1999, we feel that
21 there's fairly compelling evidence now that law enforcement
22 choices need to be looked at. From a policy perspective, does
23 this mean that it's necessary to arrest more white people or to
24 arrest fewer black people? This is an interesting debate, but
25 it's a debate that needs to be had. I would put forward that this

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1 is a good test of whether the policy that's implemented is a good
2 one, because if it were a good one, would it not be applied
3 equally to the entire community?

4 The two other issues I want to just briefly touch on are
5 the issue of mandatory legal financial obligations. As most of
6 you know, in every felony case in Washington when the defendant is
7 sentenced, courts are statutorially required to impose a \$500
8 victim penalty assessment. And that's regardless of whether there
9 is no ascertainable victim in the crime. For instance, the
10 penalty is imposed in every drug case. And that money doesn't go
11 directly to any specific victim, if there is no ascertainable
12 victim. Much of those victim penalty assessments are never
13 collected.

14 The reason this is an important issue, I think, to the
15 commission is that the result is that many people, because of
16 their economic status, are never able to obtain a discharge from
17 their conviction. In other words, they cannot expunge it. They
18 cannot restore their civil rights, including the right to vote.
19 And the statute suggests that courts are not allowed to waive this
20 penalty based on a showing of indigency. So this is a really
21 significant issue in terms of the systematic disenfranchisement of
22 poor people and, because of the correlation between poverty and
23 race, of people of color in Washington.

24 That connection is starting to be recognized as the
25 federal voting rights litigation that I've cited in the outline

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1 out of the Eastern District of Washington in Spokane.

2 The last issue I want to talk about is the need for some
3 mechanism for Superior Court judges to depart downward or impose
4 exceptional sentences if there is a showing of selective
5 enforcement in the area of that particular crime or if the court
6 finds that the offender's criminal history overstates their
7 propensity to be involved in crime because of selective
8 enforcement.

9 A case that illustrates why this is necessary and useful
10 is United States vs. Leviner which is cited in the outline, a
11 federal district court case out of the District of Massachusetts.
12 Right now the capacity of Superior Court judges to impose
13 exceptional sentences has been constricted to factors that
14 distinguish the offender who is before the court from another
15 offender committing the same crime who is before the court.

16 And the point that we want to raise is that that ignores
17 the possibility that large classes of offenders committing the
18 same crime will never come before the court because of systematic
19 selective enforcement. There should be some mechanism for a judge
20 to take that into consideration. Right now case law on
21 exceptional sentences does not appear to allow that.

22

23 JUSTICE SMITH: Thank you, Ms. Daugaard.

24 Any questions? A five-minute limitation.

25 Questions by commission members.

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1 JUDGE THOMPSON: Phil Thompson.

2 You mentioned the penalty assessment in the amount
3 of \$500. Is that a portion of an attorneys' fee or
4 just a flat penalty assessment?

5 MS. DAUGAARD: That's apart from any other court
6 costs that are imposed, yeah.

7 JUDGE THOMPSON: When did they start doing that?

8 MS. DAUGAARD: Probably commission members know
9 the answer to that better than I do. A number of years
10 ago.

11 JUDGE MURPHY: Jim Murphy. What is it, is it a
12 regulation or statute that prohibits one from getting a
13 discharge if there is a pending LFO?

14 MS. DAUGAARD: It's statutory. It's the statute
15 governing obtaining discharges. And because somebody
16 has to have satisfied all the conditions of their
17 sentence to get the discharge, not paying the LFO, the
18 legal-financial obligation, precludes the discharge.

19 JUDGE MURPHY: Has there been any attempt to
20 change that statute?

21 MS. DAUGAARD: We have suggestions about how that
22 could be done which would allow -- actually, it's not
23 about the disenfranchisement or about the discharge
24 statute but about allowing judges to either convert the
25 victim penalty assessment to community service or waive

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1 it upon an evidentiary showing of indigency.

2 The ACLU has proposed legislation the last couple
3 years that would take voting out of the rights that are
4 contingent on getting discharged. So that's a
5 different approach.

6 JUSTICE SMITH: Other questions?

7 Thank you, Ms. Daugaard.

8 Our next presenter is Ms. Kim Tran; and Mr. Ken
9 Payson, a member of our commission, who is president of
10 the Asian Bar Association of Washington, will
11 participate minimally with her.

12 MR. PAYSON: Thank you, Justice Smith. I'm going
13 to wear my Asian bar hat as Justice Smith just
14 indicated. I want to thank the commission for the
15 opportunity to hear our views on access to justice
16 issues as they affect the Asian-American community. .

17 And pursuant to Justice Smith's request, I will
18 now pass the torch to the director of our International
19 District Legal Clinic, Kim Tran.

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STATEMENT BY KIM TRAN

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Good afternoon. Thank you again for the commission's time today. My name is Kim Tran. I'm the coordinator for the International District Legal Clinic, which is a legal clinic that is a joint effort with the King County Bar Association, the Asian Bar Association of Washington, and the Asian Counseling and Referral Service. It provides free level services to King County residents.

11

I think a lot of what I was saying today echoes a lot of the issues, the interpreter issues. That's a big issue that we have in our clinic. But what I wanted to do was provide some anecdotal information for the commission. One of the issues that the clinic sees is individuals who come to the clinic lack a level of trust for the system and for the process. And not only that, but they, for whatever reason -- it could be because they had bad experiences in places they have been before or bad experiences with the system as it is -- they feel a lack of trust for attorneys, in general. I don't know. I don't know if that's just . . .

22

And I think one example, that I can come up with for that is a lot of the issues that we get are immigration issues. There is also an immigration clinic in the King County Bar Association. We often refer the client to the immigration clinic,

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1 and they decline. And they indicate they'd rather come to the ID
2 Legal Clinic and speak with an Asian attorney. And I think that
3 goes to the level of trust.

4 Another example, anecdotal example that I have is that
5 this week I spent some time mediating a Sound Transit issue.
6 There's a lot of condemnation issues that are going on right now.
7 And one of the parties was a Vietnamese individual. During a
8 break in the mediation, he came up to me and said he wanted --
9 there was a day between the two mediation sessions. He called me
10 directly, the Vietnamese landowner, and wanted to talk to me about
11 his case. And I said, I really can't talk to you. You need to
12 call your attorney. He said, Well, I want to talk to you because
13 you're Vietnamese and you'll understand. And that kind of echoes
14 some of the issues that I hear coming in the clinic.

15 The other issues that also come up, the interpretation
16 issue, we do provide interpreters for our clients. A lot of them
17 feel more comfortable bringing in family members, and family
18 members and friends particularly become an ethical issue and
19 breaking-the-privilege issue. So that also, I think, goes to the
20 trust. They would much rather trust someone they know to
21 interpret than someone who's a court-certified interpreter.

22 The other issue that has come up with interpreters is --
23 and I've seen this mostly with the Cambodian community -- there
24 are very few certified interpreters. So when they come, there's
25 been a situation where the conflict was actually with a family

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1 member of the interpreter. So it would not have been appropriate
2 for that interpreter to provide the interpretation that evening,
3 but we didn't have access to another interpreter. So that is also
4 another situation that comes up.

5 But I think one issue that I wanted to close on and
6 focus on is the lack of direct representation for the clients that
7 come to the clinic. It is true that they get their free half an
8 hour and their free hour if they have an interpreter, but that's
9 clearly not enough time to provide the services that are
10 necessary.

11 And what I would suggest -- and I know that we've
12 attempted to do this -- is to provide referral attorneys who can
13 accept these cases on either a discounted-fee basis or on a pro
14 bono basis. But it's that time after the first half hour or hour,
15 and that's really where the gap is. They need somebody in the
16 court with them. They need somebody to consistently be reviewing
17 the documents.

18 So those are the issues, kind of the anecdotal issues,
19 that I've seen at the clinic over the last three years that I've
20 been the coordinator.

21

22 JUSTICE SMITH: Thank you, Ms. Tran.

23 A five-minute limitation on the questions from
24 members of the commission. Any questions of Ms. Tran?

25 I can't see so you're going to have to speak up.

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1 JUDGE MAMIYA: Ron Mamiya. How can we outreach to
2 these various communities? You say that we don't have
3 enough interpreters; but on the other hand, it's
4 difficult to reach into the communities and get persons
5 who are qualified and are capable of becoming court
6 interpreters in various languages. How does your
7 clinic, first of all, disseminate information that
8 you're there? And secondly, how do you reach into
9 those communities to be able to get qualified people to
10 assist and explain the processes?

11 MS. TRAN: Well, one of the things that we've done
12 that we've found has been fairly effective is we also
13 do education workshops. For example, we'll do
14 employment law workshops; and so we will actually go
15 out to the community. So we'll go to the Buddhist
16 temple and give a session there and, along with that,
17 talk to those community leaders and ask them and inform
18 them and educate them that it is really important to
19 find qualified interpreters and not just someone who
20 knows how to speak the language.

21 Because it also has to go both ways. So we know
22 people who are really fluent in Vietnamese but can't
23 translate it back to English. So going to the
24 community has been one of the effective tools.

25 JUSTICE SMITH: Other questions?

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1 Thank you, Ms. Tran and Mr. Payson.

2 Our next witness is Ms. Ann Benson, Washington
3 Defenders Association.

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STATEMENT OF ANN BENSON

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Good afternoon and thank you to the commission for allowing me the time to come and speak to you. My name is Ann Benson. I'm the directing attorney with the Washington Defenders Association's Immigration Project. And I am here to talk today about the treatment of immigrants in the criminal justice system.

I have been an immigration attorney for 13 years, and I've been here in Seattle for 8 years. The last four of them, I have been working with the project that the WDA created to address the issues of immigrants in the criminal justice system and particularly the immigrant defendants. This was a recognition of the increase in the draconian immigration consequences that immigrants are now facing, not only because of criminal convictions but because of contact with the criminal justice system.

Being accused of a crime is a distressing thing regardless of your immigration status; but if you happen to be a noncitizen, you face the added stress of having to navigate a legal and cultural system which you're probably not familiar with. Oftentimes you're doing it in a second language, and you are trying to deal with the immigration consequences that may flow from your contact with the criminal justice system.

In the last several years, as perhaps many of you know,

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1 there have been dramatic changes to the way that we address issues
2 of immigration in the country, in our country. Most recently,
3 last March, the Immigration and Naturalization Service was
4 actually abolished and replaced with the Department of Homeland
5 Security. In the process of doing that, they increased their
6 enforcement budget such that the level of immigration enforcement
7 has more than quadrupled in the last 10 years. This means that
8 INS has a much larger presence in the criminal justice system and
9 in the immigrant communities that we're dealing with.

10 This is in combination with the incredible draconian
11 changes that have happened to immigration law with respect to
12 immigrants who face deportation for criminal convictions. In
13 addition to increasing the penalty, the crimes for which you can
14 be deported, now you can be deported for stealing a pack of
15 cigarettes, regardless of whether or not you've been here your
16 whole life, whether or not you're facing persecution, whether or
17 not you have family members here, whether or not you have
18 life-altering illnesses. It's a virtual certainty. And
19 immigration judges no longer have the authority to suspend your
20 deportation. So the consequences are much more significant.

21 In addition, you will face mandatory detention for the
22 duration of your deportation proceedings. And because immigration
23 is considered to be a civil process, you have no right to
24 appointed counsel. 85 percent of people who are deported are done
25 so pro se. Most of them are indigent.

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1 The three points that I want to address with the
2 commission here with regard to the criminal justice system and
3 immigrants in the criminal justice system are law enforcement, the
4 courts, and criminal defense counsel. And I'd just like to make a
5 few key points under each of those areas.

6 First of all, with regards to local law enforcement,
7 the dramatic increase in the collaboration between what was
8 formerly INS, now the Department of Homeland Security -- there's
9 been a dramatic increase in the collaborative efforts between the
10 federal government and local law enforcement with regards to their
11 efforts to apprehend noncitizens whom they believe are deportable.
12 There is essentially no accountability that's happening in how
13 they are going about doing this. And it's resulting in
14 unbelievable abuse of rights of the immigrants from the community.

15 There are places throughout this state -- I deal with
16 communities in the Skagit Valley, Walla Walla, Forks, outside of
17 Bellingham -- where communities are essentially just being
18 terrorized by this collaborative effort of INS and local law
19 enforcement. And there's no one who's really holding them
20 accountable for this.

21 A lot of what happens, in my experience, there's a lot
22 of racial profiling. In other words, people get stopped and
23 turned over to INS. It dramatically impacts people of color,
24 particularly Latinos and people who speak with accents. Even
25 though the Ninth Circuit has said that is an unacceptable

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1 practice, in reality, it's happening every day and likely as we
2 speak.

3 This is about to potentially get more intense because
4 the federal government is currently debating a law called the
5 Clear Act which would mandate that local law enforcement officers
6 not only have the authority but federal funding to local law
7 enforcement would be tied to their actual enforcement of
8 immigration law. So local cops here in Seattle, in Wenatchee,
9 would now have the authority to arrest and begin the process of
10 deporting noncitizens, even though it is a federal government
11 function.

12 So what I would call to the commission is we need an
13 incredible amount of increased scrutiny about this particular
14 collaborative relationship that is becoming enhanced.

15 With regards to the court, with regards to the court
16 system, in my four years of doing work, I have seen a significant
17 increase in the awareness, particularly of judges, who are trying
18 to do their best to address this issue with immigrants coming up
19 with hearings before them. And if I were to rate the court
20 system, I would give them a C plus at the moment for their
21 efforts, even though that sounds a little bit harsh. I do think
22 that it is a significant improvement from where it was four years
23 ago.

24 Briefly, the judges appear to fall into three
25 categories, which I outlined in my article. There are the judges

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1 who get it, who get what's about to happen to the noncitizens who
2 may be appearing before them. They get the incredibly significant
3 stakes that the immigrant defendant is navigating. And they take
4 steps to try and mitigate that. Even though the immigration
5 consequences are deemed collateral to the criminal consequences,
6 that doesn't mean that the courts cannot address them. And so
7 there are many judges who do things like alter the sentences, make
8 sure that the defense counsel is addressing immigration issues,
9 and do the kinds things that I try and educate them about when I
10 do trainings with them.

11 There are other judges who are taking what I call the
12 ostrich approach, whether because they don't want to deal with it
13 or their dockets are too pressing and they can't. And they simply
14 don't do anything, which by default results in some pretty harsh
15 consequences for the noncitizens.

16 Then unfortunately there are the judges who are actively
17 working against noncitizens and use their authority from the bench
18 to essentially insure that the draconian consequences affect
19 noncitizens. They do things like require noncitizens to give
20 their passports as a condition of bond. They impose 365-day
21 sentences knowing this will result in deportation as an aggravated
22 felon, things of that nature. Fortunately, I'd like to think they
23 are in the minority. They're definitely what's keeping the grade
24 at a C plus.

25 The last point I'd like to make is with regards to the

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1 criminal defense bar. One of the main focuses of my job is to
2 work with criminal defense counsel on a case-by-case basis to try
3 and give them support for mitigating, navigating, avoiding the
4 immigration consequences that noncitizens will face. I deal with
5 about 100 cases a month. And one of the things that would be
6 great would be to have increased resources as well as increased
7 awareness amongst the criminal defense bar about how important it
8 is to deal with this issue before they plead a client out or
9 before they decide to go to trial.

10 I think that I'll stop my comments from there. Again, I
11 really appreciate your taking time to focus on this really
12 important issue.

13

14 JUSTICE SMITH: Thank you. Five minutes for
15 questioning Ms. Benson. Ms. Erica Chung.

16 MS. CHUNG: This question has to do with detention
17 of juveniles and the detention center reporting their
18 undocumented status to what was formally known as INS.
19 Can you talk about that a little bit. I think you
20 mentioned one of the counties is Chelan,
21 Benton/Franklin county, or some other county.

22 MS. BENSON: Really quickly, so as not to use too
23 much of five minutes, with regards to the law
24 enforcement issue, there is a problem in
25 Benton/Franklin county that we're about to start taking

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1 on there in the way that we have in Chelan County.
2 There's a team of immigration attorneys -- immigration
3 attorneys, advocates, immigrant advocates, and juvenile
4 defense attorneys -- who have been working on a very
5 serious problem whereby juveniles who are being booked
6 into the juvenile detention facilities are being
7 targeted, culled off, turned over to INS, and deported.

8 And we believe that this is beyond the scope of
9 the law; and to date, nobody has actually been holding
10 these entities accountable. We actually were able to
11 get the folks in Chelan county to suspend this
12 practice. We know it is happening in at least five
13 other counties through out the state.

14 In one instance, probably one of the more
15 egregious cases that we've been dealing with, I think
16 it was a 15-year-old Latino young man taken into the
17 juvenile detention center in Yakima. He was asked
18 where he was born. He said he was born in California.
19 And the juvenile booking officer didn't believe him,
20 turned him over to INS.

21 He was severely interrogated by two INS/Department
22 of Homeland Security agents. They figured out that his
23 parents were undocumented. His parents actually
24 brought in the birth certificate that showed that he
25 was in fact born at the Stanford University. And when

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1 they did, the entire family was rounded up and placed
2 in deportation proceedings.

3 So the juvenile, there are instances -- this is
4 one of them -- where not only is there racial profiling
5 going on but there's clearly nothing that would support
6 a lack of veracity. The kid was totally credible, but
7 he was then used as bait to get the rest of his family,
8 who was undocumented.

9 So there is a working group of folks that have
10 been rounded up that we're trying to take on this
11 issue.

12 JUSTICE SMITH: Judge Mamiya?

13 JUDGE MAMIYA: Ann, this is the first time we've
14 met face to face. But I want to let all the commission
15 know that there's a great treatise on immigration
16 consequences in the criminal setting. I'd like Ann to
17 talk about that. And one of my greatest joys in life
18 is referring that document, the availability of that
19 document, to one of Mr. Boruchowitz' public defenders.

20 MS. BENSON: Thanks. I'm in the process right now
21 of doing the updates on those materials. I do put out
22 a publication called "The Immigration Consequences of
23 Criminal Conduct." It's available on the Washington
24 Defenders Association web site which is
25 www.defensenet.org. And my 2004 updates should be out

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1 hopefully by the end of February, sometime
2 February/March. Thank you, Judge Mamiya, for your
3 help.

4 JUSTICE SMITH: Ms. Denise Marti.

5 MS. MARTI: Marti, M-A-R-T-I. I guess I wanted to
6 ask you what more can be done to educate the bench
7 about the immigration consequences, even like in civil
8 cases where the issuance of protection order or
9 restraining orders can lead to immigration
10 consequences.

11 MS. BENSON: Well, I'm certainly happy to explore
12 those options. I'm essentially a project of one within
13 the WDA, which may not sound like much; but Washington
14 state and New York state are the only two states in the
15 country that actually have full-time attorneys, even
16 though we're only one attorney in each state, dedicated
17 to this. I do a lot of training and education and
18 public speaking.

19 Again, the material that I've put out, the new
20 materials will include a top-10 list for judges of the
21 top 10 things that you can do as a judge to be aware of
22 those things. The best thing that I have found is
23 peer-to-peer education, which I am sure other people
24 recognize -- I mean, it's not a new thing that's new to
25 me -- when other judges take the lead and recognize the

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1 importance of this issue.

2 I mean, that's the best thing; and if the
3 commission, if the judicial associations themselves
4 recognize this, that goes much further than if I'm out
5 here jumping and down about it which I do a lot of.

6 JUSTICE SMITH: Any other questions?

7 Bonnie Glenn.

8 MS. GLENN: I know that originally, when you
9 started with the project, when I was a supervisor at the
10 city attorney's office in Seattle, that you did make a
11 presentation there. Have you since then further given
12 like this manual and made headway with any of the
13 prosecution offices with respect to immigration
14 policies?

15 As an example, a lot of times, even in
16 misdemeanor-land, defense counsel will request
17 sentences of 364 days in jail and not 365, and policies
18 which prohibit that. Probably since I last saw you
19 four years ago, are you making headway with
20 prosecutors' offices?

21 MS. BENSON: I am. It varies so much by the
22 offices. Certainly, in King County, I've made great
23 headway, particularly in dealing with domestic violence
24 cases. I've done a lot of work in Spokane, in Whatcom
25 county. I'm starting to do stuff out on the peninsula,

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1 particularly in the community of Forks, where there's a
2 large Latino population.

3 You know, it really depends on the prosecutors,
4 the particular prosecutor's office: Who's the head of
5 the office, the tone they set, how willing they are to
6 deal with this.

7 My employer, the defender association, makes me
8 available. I'm an informational resource to
9 prosecutors as well, I mean. So I take calls from
10 prosecutors. I do backup for defenders. So if the
11 defender calls me and says, I've got a green card
12 charged with forgery. What should I do? We come up
13 with a strategy. I give backup so that the defense
14 attorney isn't having the explain complicated aspects
15 of immigration law to the prosecutor. So I make myself
16 available on a case-by-case basis.

17 I try and do trainings for them, and then I do
18 systemic-reform kinds of issues. For example, in
19 domestic violence cases, we work out special deferred
20 adjudication agreements that don't make them
21 convictions for immigration purposes, which if you look
22 at my materials, there's a whole section on that.

23 MS. GLENN: Thank you.

24 JUSTICE SMITH: Any other questions?

25 Thank you, Ms. Ann Benson.

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1 We're going to take a five-minute break.

2 [A brief recess was taken.]

3 JUSTICE SMITH: I'd like to acknowledge, before we
4 start, the fact that we have the expert assistance of
5 Ms. Jacqueline L. Bellows of Van Pelt, Corbett,
6 Bellows, court reporters. Keep that name in mind. And
7 because, for this reason, as many of you know, I have a
8 pseudo background in court reporting. And I know good
9 court reporting when I see it.

10 They are exceptional court reporters. She's is
11 here with an assistant, but Ms. Bellows will be
12 responsible for a perfect transcript. And this we will
13 have at some later time.

14 Our next witness is Mr. Shankar Narayan who will
15 present Ms. Anita Prasad. And Mr. Narayan is with the
16 Kanoon South Asian Bar Association.

17 And could you briefly tell us what that
18 association consists of as you introduce Ms. Prasad.

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STATEMENT OF SHANKAR NARAYAN

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Absolutely. Again, I'm Shankar Narayan; and I am on the board of directors and also a vice president of the Kanoon South Asian Bar Association, which is an incipient bar association of South Asian attorneys along the lines of the Asian Bar Association of Washington.

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And Anita and I are going to talk a little bit just about some of the issues that I think have been gone over before, issues that really sort of go to the credibility and trust of the court system, but to put them a little bit in a South Asian context and also just to address the specific issues that South Asian women have in accessing the court system in Washington.

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So the two points I want to talk briefly about -- and then Anita will fill in anecdotally on that -- are cultural sensitivity to South Asian issues and language accessibility for South Asians, both of which, I think, are hugely, hugely important.

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I think it's fair to say that even among people who deal with minority issues, South Asian issues in Washington have not necessarily been at the forefront of peoples' mind space. I think part of that is because of the numbers of South Asians. We are not necessarily as large or as established a community as some of the others in Washington. But it is also true that South Asians

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1 are a growing and vibrant community in Washington. And it's
2 probably time for South Asians and South Asian issues to assume
3 some share of the mind space among people who deal with minority
4 issues.

5 We would like to see judges and others in the court
6 system basically acknowledge problems and issues that are unique
7 to South Asian culture. Anita is going to sort of graphically
8 illustrate that with some particular experiences she's had in the
9 court system. But we really feel South Asians, and particularly
10 women who access the court system, have a double battle to fight.
11 Initially, they have a procedural battle to fight in order to
12 access the court system at all. Then after that, they have a
13 substantive battle to fight, you know, in actually having their
14 own legal issue addressed. So that's one issue.

15 The second issue is language accessibility for South
16 Asians which has been mentioned by some previous speakers. We
17 really feel that the justice system needs to look beyond simply
18 following procedural formalities and moving towards an
19 individually oriented approach. So the justice system needs to
20 ask the question: Does this individual really have the
21 understanding that is required for them to take advantage of the
22 rights that they have? Do they really understand what's going on?
23 And, as Anita will attest, there are many situations in which the
24 procedure is followed to a large degree and yet the person still
25 doesn't understand what's happening.

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1 We think that translation services could really open up
2 access to the courts for South Asians. This is translation both
3 in terms of breadth, in terms of easy availability of translators;
4 and in terms of depth, in terms of the quality of translators that
5 are available and also, you know, avoiding issues like the
6 translator giving their own advice to the client or the translator
7 having a connection with, say, an abuser for women seeking justice
8 from the court system.

9 Also, translation of documents, family-law documents
10 into South Asians languages would be a very helpful thing. Oral
11 translation services during court proceedings, even when the
12 person involved speaks English nominally, accent and speed of
13 speech and legalese in general could have a big impact on how much
14 they understand.

15 So our bottom line sort of is that a substantial number
16 of South Asians of the area are recent immigrants. They face a
17 lot of hurdles. We really feel it's incumbent upon the justice
18 system to go that extra mile to make sure that they're able to
19 access their legal rights. And with that, I'm going to turn it
20 over to Anita Prasad, who is an advocate with Chaya which is a
21 domestic violence organization.

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STATEMENT OF ANITA PRASAD

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Thank you. Thank you very much for this opportunity to speak today.

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I'm a women's advocate at Chaya. We work with South Asian women who are experiencing domestic violence. Our role is to support women in whatever stage they are in dealing with the violence in their homes and also to help them navigate the system, whether it's the DSHS system, immigration issues, and also the legal system.

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And the majority of our clients do not have the resources to access legal services, to employ a lawyer to help them if they want to get a dissolution from their partners. And so we kind of help to secure whatever we can from legal services. We work with NJC and Columbia Legal Services, but the need is far greater than what's available to the women.

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And so we're often in the position of trying to secure interpretation services in the courtroom. And we find there are some barriers sometimes. And one is that our communities are very small, like Mr. Narayan said; and there is a high risk that the interpreter will know either our client, the victim, or also know the abuser. And that can put the victim at high risk if they are now in a secure location and it gets out in the community where she is and that type of thing. And so far we have not had the

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1 people coordinating interpreter services contact the victim and
2 ask them, Do you know this interpreter. Do you know this someone
3 that is safe doing the interpretation services in the courtroom?

4 We've had experience with interpreters giving personal
5 advice to clients. That, of course, we didn't find out until
6 later because it was happening in their language in the courtroom.
7 But so far as to say to our client: Why you are breaking up this
8 family? You should go back to your husband, which can be
9 extremely devastating because it's a huge mountain to climb to get
10 to this point for the women in many cases.

11 And so there seems to be a great need for education, for
12 interpreter training, and also for a lot of training to judges and
13 other people in the court service system in making sure that women
14 are getting appropriate interpretation services.

15 And our clients are often unaware of their rights to
16 interpreters. And sometimes what can be helpful in terms of a
17 judge helping a woman in the courtroom is just saying in the
18 beginning, If the interpretation is not working, if they're not
19 translating word by word what you are saying, please let me know
20 so that we can make sure that we can get better interpretation
21 service for you. And because a lot of women feel very insecure in
22 the courtroom and are basically doing -- well, will respond to
23 questions but not feel very comfortable asserting themselves and
24 saying, You know, this isn't working out for me. The interpreter
25 is not interpreting what I'm saying properly. So we've had many

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1 experiences like this. And we'll really need to see this being
2 addressed at some point.

3 Another issue that's come up a lot is the need for help
4 in civil cases and particularly in divorce and dissolutions. And
5 again, many of our clients can't afford legal counsel. And so
6 they have to sift through this mountain of paperwork themselves.
7 We try to help as much as we can or get help from legal clinics.
8 But it's such a long, drawn-out process. And that oftentimes the
9 forms are not really accessible. Even if the client can speak
10 English and read English, it's written in a language that's just,
11 for someone like me who speaks almost perfect English it's really
12 hard to understand. So the need for more services in the civil
13 arena is really, really helpful.

14 I guess I just want to reiterate a lot of what Ms. Tran
15 said is that interpretation is an issue that's still very
16 prevalent and really should be addressed in some way.

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18 MR. NARAYAN: And that goes along with the general
19 issue of cultural sensitivity. Anita has also told me
20 other stories of issues where judges were simply not
21 aware of the culture stigma that came with taking
22 certain kinds of actions that they had ordered or had
23 assumed that the client have more resources than they
24 did.

25 I think there are a lot of sort of issues that go

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1 along with being a woman who was brought into this
2 country by a husband who's lived here longer than she
3 has and is much more integrated into the community and
4 just has a lot more power in general.

5 MS. PRASAD: I mean, the stakes are really high
6 for a lot of women. They can lose their children to
7 the abuser who's more aware of the procedures of the
8 legal system.

9 JUSTICE SMITH: All right. We want to thank
10 Ms. Prasad and Mr. Narayan.

11 And we have a five-minute period of questions.
12 And Ms. Chung has quite a few, and then other members
13 of the commission will ask questions.

14 MS. CHUNG: Just out of curiosity, what
15 ethnicities are being covered --

16 THE REPORTER: Could you speak up, please?

17 MS. CHUNG: Basically, I was wondering what
18 ethnicities that entails, "South Asian."

19 MR. NARAYAN: We generally think of several
20 countries as under the rubric of South Asian. There
21 is --

22 JUSTICE SMITH: You need to speak up.

23 MR. NARAYAN: Indian, Pakistani, Bangladeshi,
24 Nepalese, Bhutanese, Sri Lankan, and Maldivian. So
25 anyone who has an ethnic original in one of those

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1 countries would be considered South Asians.

2 JUSTICE SMITH: Question, Judge Mamiya.

3 JUDGE MAMIYA: Have you considered partnering with
4 the Asian Bar Association as far as receiving legal
5 services for your clients?

6 MR. NARAYAN: We can certainly think about doing
7 that. I happen to be on both the boards. And so ours
8 is a very, as I mentioned, we're a very incipient
9 organization. We started a couple of years ago, and
10 we're just getting it together. But that's certainly
11 something that we would like to partner with the Asian
12 Bar Association and other organizations as well.

13 JUDGE MAMIYA: And as far as your agency, are you
14 interested in having speakers come out to speak with
15 women about their rights in court?

16 MS. PRASAD: Yeah. But I mean, it's difficult for
17 many of our women because many of the women we serve
18 are kind of all over Seattle; and a lot of them, it's
19 hard to get everyone together in one place. A lot of
20 the women are in their homes and do not have access to
21 come and go as they please.

22 JUDGE MAMIYA: Are there concentric groups that
23 would form a basis for being able to go out and speak
24 with them, like through their churches or social
25 groups?

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1 MS. PRASAD: There are. There are. That's a good
2 idea.

3 JUSTICE SMITH: Any other questions?

4 We want to thank Ms. Prasad and Mr. Narayan.

5 Our last community-based witness is Mr. Kush
6 Bambrah, Hate Free Zone of Washington. And you can
7 briefly tell us what Hate Free Zone of Washington is.
8 I know, but I'm not sure everybody else does.

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STATEMENT OF KUSH BAMBRAH

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K-U-S-H, B-A-M-B-R-A-H. And the Hate Free Zone was

created shortly after 9-11. And it was created because there was

two forms of backlash that we were seeing that were happening.

The first was in the form of a massive and unprecedented spate of

hate crimes that was occurring throughout immigrant communities,

not just locally but throughout the United States. And the second

one was the development and implementation of a variety of

programs by the administration and the local government that were

targeting immigrant communities and low income communities in

their pursuit to advance national security.

So I really want to thank all of you for allowing me to

participate today, and I want to thank especially Erica for

inviting me. And if I am too soft spoken, let me know and I'll

try to speak up some. But I have some prepared remarks.

My name is Kush Bambragh from Hate Free Zone. Since the

attacks on 9-11, one consequence that had dramatically affected

communities, immigrant communities and communities of color, has

been the creation of a phenomenon known as flying, driving, and

living while brown. Akin to living and driving while black, this

new-found form of racial profiling is no less insidious and no

less disenfranchising.

Police misconduct, police accountability are issues of

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1 great concern; and unfortunately, they are problems that are not
2 getting [inaudible] but are in fact getting worse.

3 THE REPORTER: Excuse me. I hate to do this. But
4 maybe if you sat a little closer to us . . .

5 JUSTICE SMITH: Why don't you move. Is there a
6 seat near the court reporter? And could you project
7 your voice down so I can hear you.

8 MR. BAMBRAH: I usually use the mike. So I
9 apologize.

10 JUSTICE SMITH: Why don't you start over again
11 because I don't think the court reporter got it.

12

13 BY MR. BAMBRAH:

14 Since 9-11, something that has definitely concerned the
15 Hate Free Zone has been the issue of police accountability and
16 racial profiling. What's happened is a phenomenon very similar to
17 driving while black. There's now a phenomenon known as driving
18 while brown. It's no less disenfranchising, and it's no more
19 effective. So an issue that is deeply concerning us are issues of
20 racial profiling and police accountability.

21 Since 9-11, we have cataloged and we have come into
22 contact with a number of these incidents going on all over the
23 place. And it's on the basis of perceived ethnicity, race,
24 religion, national origin. And this is happening to people that
25 have been here for many, many years; and they have been here as

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1 law-abiding residents of Washington state and Seattle.

2 However, just as racial profiling has been shown to be
3 an ineffective tool in fighting crime, racial profiling is
4 similarly ineffective in fighting terrorism. And in fact, it may
5 be more detrimental as it broadly and wrongfully stigmatizes broad
6 swathes of our society as potential terrorists. It's a pointed
7 form of police misconduct, and it's shameful.

8 The anti-immigrant climate created in the past few years
9 has resulted in chilling effect on immigrants' willingness to
10 approach law enforcement. So you have situations where there are
11 persons that are victims of domestic violence that are just afraid
12 to call the cops. You know, they are the victims of burglary or
13 assault, and they are just afraid to contact any sort of law
14 enforcement.

15 So the Hate Free Zone is committed to alleviate these
16 tremendous burdens that the immigrant community has been forced to
17 endure. In this effort, we have done a number of different
18 things. Last year we helped support and draft Seattle City
19 Ordinance 4.18 that disallows any Seattle employee from inquiring
20 into the immigration status of any person that they come into
21 contact with, and this was particularly focused toward law
22 enforcement.

23 We have also worked extensively with law enforcement in
24 trying to provide them with cultural and sensitivity training.
25 And most recently, this past year in the fall, we worked with a

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1 broad coalition of other community-based organizations in trying
2 to put together a public hearing on police accountability, which
3 we're happy to -- it was realized as Council Member Jim Compton
4 sponsored it.

5 Despite these efforts, though, police misconduct still
6 sadly occurs, and we have examined the current system in place by
7 the city and the Police Guild. What is starkly clear is that the
8 system in its present state just does not work. There's a couple
9 of different reasons. The first one is that it's not transparent.
10 The second is that it's very difficult to navigate if you're from
11 an immigrant community or you're limited English proficient. And
12 most importantly, it does not instill trust in the very
13 communities that it was designed to serve.

14 So the Hate Free Zone serves communities that have
15 historically been marginalized and disenfranchised. And upon
16 review of the Office of Police Accountability, our conclusion is
17 that the system continues to perpetuate this reality. In addition
18 to the lack of transparency, little effort has been made to make
19 the complicated and intimidating complaint process more accessible
20 to every person it is meant to serve.

21 The answer as to how to best reform the current system
22 ranges from revisions to a complete overhaul. But a minimum is
23 what we request. We strongly support complement advocates to aid
24 immigrant LEP persons in the process.

25 B, a greater needs to be put on data collection so that

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1 in analyzing and reviewing the system an accurate description can
2 be made or an accurate analysis can be made with respect to racial
3 profiling.

4 C, the ability to appeal to a civilian review board.

5 D, periodic and independent review of the entire process
6 by a outside body.

7 And E, a civilian review board that is chosen without
8 threat of a veto power. As it currently stands, the members of
9 the civilian review board can be vetoed by the police chief or the
10 Police Guild.

11 The Hate Free Zone believes the above will help greatly
12 to alleviate the tremendous fear immigrant communities currently
13 have towards law enforcement. It will foster greater trust, and
14 therefore greater numbers of immigrants will be less fearful of
15 filing complaints of police misconduct. And ultimately their
16 needs will be served.

17 This has been a considerable hurdle in the past two
18 years. And the communities we serve need a system in which they
19 too are served, a system in which they are no longer marginalized,
20 and a system in which they too can have a voice.

21 So those are my remarks. I thank you for your time.
22 I'm happy to take any questions that you have.

23

24 JUSTICE SMITH: Thank you, Mr. Bambrah. The
25 commission has five minutes to ask you questions.

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1 Ms. Chung, you don't have a question, do you?

2 Other members of the commission, any questions?

3 MR. BAMBRAH: I do apologize for my lack of
4 projection.

5 JUSTICE SMITH: No, it's good. It's just that in
6 this atmosphere with the fans going, the court reporter
7 cannot always hear elegant language, and yours is
8 elegant.

9 Questions from the commission? Judge Sypolt.

10 JUDGE SYPOLT: Greg Sypolt.

11 Sir, I'm interested in what reception you've
12 gotten from the brass, so speak to speak, in the police
13 department and other law enforcement.

14 MR. BAMBRAH: Right. That has been a very
15 interesting relationship. On one hand, they do seem
16 receptive; and they want to do what they can. On the
17 other hand, they have presented how there's limitations
18 based on labor law and the contractual relationship
19 with the City and that they are under no obligation
20 currently, based on the contract that they have between
21 themselves and the City, to do what we request. They
22 do say that they are mindful of our concerns and they
23 want to make progress on it. So it's kind of a
24 schizophrenic relationship.

25 JUSTICE SMITH: Other questions?

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1 MR. BAMBRAH: To take it one step further, is that
2 what we've been trying to do this past year is work on
3 that contract between the City and the Police Guild.
4 Because traditionally and historically, what's happened
5 is that the City has negotiated away certain rights,
6 one of which is to be able to have some control over
7 the review board. So we were unsuccessful this time;
8 but I think we did help them realize that it's an issue
9 that communities of color and immigrant communities are
10 very concerned about and that we are more than ready to
11 keep up on this very important cause.

12 JUSTICE SMITH: Any other questions? We want to
13 thank Mr. Bambrach for being here.

14 We now have exhausted our outside community
15 witnesses, and now we're moving to our own commission
16 as an exception to the established rule that no
17 commission members will be witnesses. And Mr. Lonnie
18 Davis, a member of our commission as long as I can
19 remember, wishes to make a presentation.

20 Lonnie, why don't you come up here.

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STATEMENT OF LONNIE DAVIS

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Lonnie Davis. Thank you.

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To protect my own self-image, I'm absolutely here as a witness and surrogate, reading a letter that I received from an outside organization. And in the interests of time, I'll just read what I think are the most pressing portions of this letter. It comes from the Eastern Washington Center for the Deaf and Hard of Hearing in Spokane. And the whole letter will be made part of the record for those of you who want to see the rest of it.

The best estimate from the State Office of Deaf and Hard of Hearing indicates that approximately 11 percent of the state's population have a hearing loss. That would be a little over 1 in every 10 court staff, attorneys, clients, and witnesses. For example, the deaf population in the Spokane area is about 850, with hard of hearing numbering over 35,000.

Many governmental, nonprofit, and private providers meet needs of physically handicapped through redesigned facilities as early as the 1970's. Qualified interpreters for the deaf and realtime captioning for the hard of hearing are the equivalent of ramps and handicapped bathrooms. With a qualified interpreter or other accommodation, the deaf and hard of hearing can access judicial services on an equal footing with hearing people.

The center has had numerous experiences where agencies

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1 such as the judicial system do not understand their obligation to
2 provide sign language interpreters, do not know how to properly
3 engage an interpreter, were anxious to assist deaf and heard of
4 hearing but did not understand how their current approach
5 represented a significant barrier to services, and were unable to
6 provide accommodations through the failure to budget for
7 interpreter or other access costs.

8 Despite everyone's well-meaning efforts, examples
9 include a civil client arrives in the courtroom to see an
10 unqualified interpreter attempting some remedial signing that is
11 not understood by the deaf person. Without a qualified
12 interpreter during the proceeding, the hearing people could not
13 understand that there were severe communication barriers.

14 Court personnel asked interpreters specifics of what
15 went on during proceedings rather than addressing questions to the
16 deaf person or their attorney. Attorneys do not request
17 accommodation with sufficient notice to allow the interpreter to
18 be arranged. Thus the client's case is postponed. Courts engage
19 interpreters without due diligence to determine conflict of
20 interest of the interpreter, proper credentials and business
21 license, and appropriate sign system capacity.

22 There are no interpreters at arraignments. There are no
23 interpreter during pretrial preparation activity in criminal or
24 civil cases. Attorneys and court personnel attempt to take notes
25 and use notes as some other effective method to communicate.

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1 There's no understanding of basic deaf culture on the part of the
2 vast majority of court personnel, reluctance or inability to use
3 part of the court system to resolve issues, the staff from our
4 office when ADA violations arise.

5 Proposed commission assistance? The center would like
6 the committee's activity to support our attempts to work with the
7 Washington State court systems in assessing their current
8 practices in providing access to deaf and hard of hearing and in
9 educating these systems in best-practice models to maximize client
10 communication.

11 Effective communication is an essential part of the
12 human relationship. By introducing effective communication
13 through an interpreter or other accommodation throughout the
14 judicial experience, the client will have a pathway to justice.
15 Through increased willingness to establish relationships with deaf
16 and hard of hearing of service agencies, courts can develop an
17 atmosphere of inclusion and build a foundation to gain compliance
18 with the ADA and other anti-discrimination laws.

19 We are attempting to obtain a grant to assess the court
20 system and provide technical assistance in the areas of ADA access
21 compliance. Funded by the State Justice Institute and
22 administered by the Washington State Court Administrative Unit,
23 the center will propose to provide up to six court systems in
24 Washington state with technical assistance and assistance on
25 access barrier removal for deaf and hard of hearing.

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1 Using this \$30,000 grant, if awarded in late 2004, would
2 allow access specialists to work with court administrators and
3 court systems with large deaf and hard of hearing populations.
4 Results of the assessment could be used in developing
5 best-practice models for all Washington courts.

6 We would appreciate your support in our efforts to
7 introduce opportunities for collaboration between court systems
8 and deaf and heard of hearing organizations as we believe the
9 statewide intensive approach to identifying and removing barrier
10 issues will go a long way to solving the above concerns.

11 Thank you for your attention. Feel free to contact me
12 should you have any questions. This is from Ann Glenn at the
13 Eastern Washington Center for the Deaf and Hard of Hearing.

14

15 JUSTICE SMITH: Thank you. And would you make a
16 copy of that letter available for the court reporter.

17 MR. DAVIS: Yes, I have.

18 JUSTICE SMITH: I'm not going to have our usual
19 question and answer session except Judge Mamiya.

20 JUDGE MAMIYA: No, I didn't have one.

21 JUSTICE SMITH: I would merely mention here that
22 as far as our Washington statute which requires sign
23 language interpreters originally designed in 1972 as a
24 sign-language interpretive statute, Judge Don Horowitz
25 and I drafted it. And we do have resources that Lonnie

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1 is familiar with: The Washington Registry of
2 Interpreters for the Deaf and the Seattle Central
3 Community College program in legal interpreters for the
4 deaf. And there is a process of certification by the
5 national registry. But there has not been -- and Judge
6 Mamiya can correct me on this -- any effort to do any
7 certification at the state level. But I'm not sure
8 because I've been out of the field.

9 JUDGE MAMIYA: We defer to their specialty which
10 is in legal interpreting, sign interpreting. They have
11 a very good process.

12 JUSTICE SMITH: I apologize for intervening, but I
13 wanted to add that footnote.

14 One more community person, I didn't know he was on
15 the agenda to speak. Eric A Jones is the
16 president-elect of the Loren Miller Bar Association,
17 and he has been here throughout the afternoon. Were
18 you here this morning?

19 MR. JONES: Just this afternoon.

20 JUSTICE SMITH: And he's added to the agenda. I
21 have one more commission member to say something; but I
22 wanted to give Mr. Jones, as a community person, an
23 opportunity to appear before us.

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STATEMENT OF ERIC A. JONES

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Good afternoon. I'm Eric Jones. I'm the

president-elect of the Loren Miller Bar Association. The Loren Miller Bar Association has been at the forefront for over 36 years on African American civil-rights-type issues in Washington state. We have 300-plus members, both lawyers and nonmembers, as part of our body.

And I just want to take a few moments to just, even though the main members of the commission probably may be familiar with the Loren Miller Bar Association, I just want to take a few moments to just state what we're doing, we have been doing, and what in particular may be issues that we may have for this particular year.

The Loren Miller Bar Association provides and refers African Americans for services including surrounding around the area of employment discrimination, criminal law, civil law, and various other areas of the law, business, et cetera. We are also very much into education and outreach. We have an education and outreach component dealing with the Youth and Law Forum. We have a Youth and Law Forum. We have the adoption of the Cleveland High School here in the Seattle area, and also we have outreach to the various different law schools.

The Loren Miller Bar Association has also been very much

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1 involved in dealing with racism issues. For example, Gonzaga,
2 when the African-American students received death threats, I-200
3 initiative. And of course recently, the Michigan case, we
4 wrote -- we helped on an amicus brief in that process. Of course,
5 everyone knows how the Supreme Court came out. On a daily basis,
6 basically, the Loren Miller Bar Association is involved in equal
7 access to justice issues for everyone.

8 One of the big things that the Loren Miller Bar
9 Association is currently involved in is dealing with the Brown v.
10 Board of Education 50-year anniversary. We're going to be having
11 a re-enactment on May 17th, 2004, at Caine Hall at the University
12 of Washington. Lem Howell will be acting as Thurgood Marshall.
13 Judge Coughenour will be the opposing side, and then the entire
14 Washington State Supreme Court will be sitting to hear this. So
15 we would very much welcome everyone's participation to come and
16 witness that.

17 Additionally, there will be various other venues that
18 will be announced of events that are going to be going on to
19 commemorate Brown v. Board of Education. We would very much like
20 the commission's involvement and participation as the commission
21 sees fit.

22 As president-elect, I would also like to speak on behalf
23 of the Loren Miller Bar Association that we have been very much
24 following the report that the woman has spoke about, as far as the
25 Seattle Police Department focusing more on people of color versus

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1 people not of color. And that we think that that report is a very
2 significant report; and we are following it and planning to pursue
3 what is being done in making sure that conversations are taking
4 place about that report in the community, whether it be in the
5 Mayor's office, various different government officials, et cetera.

6 And I would really ask this commission to really look at
7 that report and to make sure that it's just not another report
8 that has been written but falls on deaf ears and nothing comes out
9 of it. It is really a big issue for the Loren Miller Bar
10 Association, and I would ask this commission to really embrace it
11 and to see what's the most mileage we can get out of that report.

12 That's really all I have.

13

14

15 MS. GLENN: Bonnie Glenn from the commission. And
16 I know there was one other issue with respect to
17 employment discrimination that I just echo that, as a
18 former president of Loren Miller, that we get a number
19 of phone calls every day and the majority of them are
20 employment discrimination. So as that was talked about
21 earlier, hopefully at the commission we can look at
22 maybe ways or think about ways to have other
23 organizations or service support employment
24 discrimination, whether it's people who are doing work
25 already in legal services to help the community funnel

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1 more money. But that's certainly a large area where
2 people with lower income and especially people of color
3 need resources and help.

4 MR. JONES: Exactly.

5 JUSTICE SMITH: Thank you, Mr. Jones.

6 I won't have questions because we can get the
7 information from you and Ms. Bonnie Glenn or other
8 members of the Loren Miller Bar Association. Thank
9 you.

10 One commission member, the Honorable Douglas Luna
11 has something he wishes to impart.

12 JUDGE LUNA: My name is very short. I'm Douglas
13 Luna, Associate Judge, Central Council of Tlingit and
14 Haida Indian Tribes of Alaska. In the past five days,
15 I've had two calls from the United States Commission on
16 Civil Rights. They will be holding a meeting in
17 Seattle sometime in the vicinity of February 18th.

18 They are asking for papers to be prepared and
19 submitted to them on discrimination that the community
20 is seeing. I've been asked to submit a paper on the
21 discrimination towards Native American attorneys by law
22 firms that represent Indian tribes and Alaska Native
23 corporations.

24 Once I get the information on the exact time and
25 date, I will send it to Erica; and she will send it out

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1 by e-mail to everyone. That concludes my remarks.

2 JUSTICE SMITH: Thank you very much. This is
3 good. We have five minutes left and five minutes over.
4 I want to thank our wonderful court reporters -- let's
5 give them a hand -- and everybody who had been here,
6 especially our members who have come across the
7 mountains. I always admire you for doing that. It's
8 hard enough for me, who lives five minutes away from
9 here, to get here.

10 I think this has been one of our better meetings.
11 The proceedings of the forum will be transcribed, and
12 copies will be made available.

13

14 [Forum concluded at 3:00 o'clock]

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C E R T I F I C A T E

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STATE OF WASHINGTON)

) SS

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COUNTY OF KING)

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I, Jacqueline L. Bellows, a Notary Public in and for

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the State of Washington, do hereby certify:

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That the foregoing hearing was taken before me at

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the time and place therein set forth;

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That the statements of the witnesses and all remarks

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made at the time of the hearing were recorded stenographically by

11

me, and thereafter transcribed under my direction;

12

That the foregoing transcript is a true record of

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the statements given by the witnesses and of all remarks made at

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the time of the hearing, to the best of my ability.

15

16

Witness my hand and seal this 12th day of February,

17

2004.

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Jacqueline L. Bellows, Notary
Public in and for the State
of Washington, residing at
Arlington. Commission
expires October 19, 2006.

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